

FILED

MAY 31 1988

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF HAROLD D. ISLEY AND MADONNA R. ISLEY

Upon the Petition of	)	124
HAROLD D. ISLEY,	)	
Petitioner-Appellant,	)	Filed May 31, 1988
And Concerning	)	
MADONNA R. ISLEY,	)	<u>8-211</u>
Respondent-Appellee.	)	87-924

Appeal from the Iowa District Court for Marion County (No. DM6-276),
James W. Brown, Judge.

The husband appeals from a dissolution decree, challenging the division
of property and the award of alimony to the wife. **AFFIRMED.**

Bert A. Bandstra, Knoxville, for petitioner-appellant.

Cheryl Richardson of Ekstrom & Richardson, Des Moines, for respondent-
appellee.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

DONIELSON, J.

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The husband appeals from a dissolution decree, challenging the division of property and the award of alimony to the wife. We affirm.

The parties were married in 1950. Their children are adults. At trial, Harold was fifty-eight years of age; Madonna was fifty-five years of age. Harold has been employed as the superintendent of the Pleasantville schools for twenty years. He presently earns \$43,800 per year. Madonna's employment experience is limited. She earns \$4,500 a year from a part-time job.

In addition to Harold's employment, the parties own and operate a farm. This farm operation has incurred debts of over \$350,000, far in excess of the value of the farm assets, resulting in a negative net worth of between \$150,000 and \$180,000. However, Harold has embarked on a plan, using the procedures of chapter 12 of the federal bankruptcy statutes, to reduce the farm debt to an amount equal to the farm assets. This plan, if successful, would cause the farm operation to have a net worth of zero rather than a negative net worth.

The dissolution decree awarded Harold all of the farm-related assets, subject to all of the farm-related debts. The decree awarded Madonna the parties' residence, which was valued at \$70,000 to \$85,000, and was subject to a debt of about \$47,000. (This house was completely separate from the farm real estate.) Madonna also received furniture and appliances. Harold was awarded all his interest in an IPERS retirement account valued at \$25,000. The decree directed Harold to pay Madonna alimony of \$1,100 per month until he retires and \$750 per month thereafter. Harold has appealed from the dissolution decree.

Our scope of review is de novo. Iowa R. App. P. 4.

Harold challenges the division of property; he contends that in light of his farm debt load, the parties' house should have been ordered sold and the

sale proceeds divided evenly. In addition, he contends the alimony award to Madonna was excessive.

We have reviewed the property division in accordance with those factors set forth in Iowa Code section 598.21(1). See In re Marriage of Hoak, 364 N.W.2d 185, 194 (Iowa 1985).

The payment of alimony must be determined in light of all the circumstances. In re Marriage of Bevers, 326 N.W.2d 896, 900 (Iowa 1982). When determining the appropriateness of alimony, the trial court must consider the earning capacity of each party, present standards of living, and ability to pay balanced against the relative needs of the other. In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983). Iowa Code section 598.21(3) informs us that alimony is awarded out of fairness, according to the particular facts of each case. Because the alimony award and property division are so closely related, we consider them together. In re Marriage of Callenius, 309 N.W.2d 510, 513 (Iowa 1981).

Madonna's financial statement shows that it costs \$1,129 to maintain the home. Given the parties' respective earning capacities, we find Harold is able to contribute \$1,100 per month in alimony in order for Madonna to stay in the home. Harold is still left with a substantial amount of income on which to live. We therefore affirm the district court's award of the home to Madonna and affirm the alimony award. Because the farm debt and farm assets are considered together in order that Harold can finalize his plan to decrease the debt, we find the district court correctly did not include the farm debt or assets in the division of property.

Madonna requests attorney fees on appeal. In evaluating such a request, we consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend

the trial court's decision on appeal. In re Marriage of Castle, 312 N.W.2d 147,
150 (Iowa App. 1981). We order Harold to pay \$1,000 toward Madonna's appellate
attorney fees.

AFFIRMED.